

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ILLINOIS TOOL WORK INC.,	)	
a Delaware corporation,	)	
	)	
Plaintiff,	)	
v.	)	C.A. No. 06-054-GMS
	)	
FRITO-LAY NORTH AMERICA, INC., f/k/a	)	
RECOT, INC.,	)	
a Delaware corporation.	)	
	)	
Defendant.	)	
_____	)	

**SCHEDULING ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2007, the Court having conducted a scheduling and planning conference on July 31, 2007, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that:

1. **Rule 26(a) Initial Disclosures.** Unless otherwise agreed to by the parties, they shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a) on or before August 24, 2007.
2. **Joinder of Other Parties and Amendment of Pleadings.** Except for good cause shown, all motions to join other parties and amend the pleadings shall be filed on or before October 15, 2007.
3. **Discovery.** All fact discovery in this case shall be initiated so that it will be completed on or before February 29, 2008. Expert discovery in this case shall be initiated so that it will be completed on or before June 30, 2008. Expert reports on issues on which a party will

bear the burden of proof at trial shall be served by April 14, 2008, and rebuttal reports shall be served by May 28, 2008.

a. **Discovery Disputes and Scheduling Matters.** Should counsel find they are unable to resolve a discovery or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the court, via electronic means (CM/ECF), a **joint, non-argumentative** letter agenda not to exceed two (2) pages outlining the issues in dispute. A sample letter can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). After the parties have had three (3) discovery teleconferences, they will be required to file a joint letter showing good cause why the court should permit a fourth discovery conference. Should the court find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

4. **Confidential Information and Papers Filed Under Seal.** Should counsel find it will be necessary to apply to the court for a protective order specifying terms and conditions for the disclosure of confidential information, they should confer and attempt to reach an agreement on a proposed form of order and submit it to the court within ten (10) days from the date of this order. When filing papers under seal, counsel should deliver to the Clerk an original and two copies of the papers.

If after making a diligent effort the parties are unable to agree on the contents of the joint proposed protective order, then they shall follow the dispute resolution process outlined in paragraph 3(a).

5. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to the United States Magistrate for the purpose of exploring the possibility of a settlement. If the parties agree that the possibility of settlement may be enhanced by such referral, the parties shall contact Magistrate Judge Thyng to schedule a settlement conference with counsel and clients.

6. **Applications by Motion.** Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1. Any request for extensions of time as forth in this Scheduling Order **must** be accompanied by an explanation or your request will be denied.

7. **Daubert Issues.** The Court will address Daubert issues at the Pretrial Conference.

8. **Pretrial Conference.** On September 8, 2008, beginning at 9:30 a.m., the Court will hold a Pretrial Conference in Chambers with counsel. Unless otherwise ordered by the Court, the parties should assume that filing the Joint Pretrial Order satisfies the pretrial disclosure requirement in Federal Rule of Civil Procedure 26(a)(3). A sample form of Pretrial Order can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). Thirty (30) days before the Joint Proposed Pretrial Order is due, plaintiff's counsel shall forward to defendant's counsel a draft of the pretrial order containing the information plaintiff proposes to include in the draft.

Defendant's counsel shall, in turn, provide to plaintiff's counsel any comments on the plaintiff's draft as well as the information defendant proposes to include in the proposed pretrial order.

**Motions in limine:** No party shall file more than five (5) motions *in limine*. Briefs (opening, answering and reply) on all motions *in limine* shall be filed by August 29, 2008. Opening and answering briefs shall not exceed five (5) pages and reply briefs shall not exceed three (3) pages. The parties will file with the court the joint proposed final pretrial order with the information required by the form of Final Pretrial Order which can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov) on or before the close of business on August 11, 2008.

12. **Trial.** This matter is scheduled for a 7 day non-jury trial on the following days: October 6, 7, 10, 14, 15, 16 and 17, 2008.

13. **Scheduling.** The parties shall contact chambers, at (302) 573-6470, only in situations where scheduling relief is sought, and only then when ALL participating counsel are on the line for purposes of selecting a new date.

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UNITED STATES DISTRICT COURT JUDGE

981323

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August 7, 2007

**BY E-FILING**

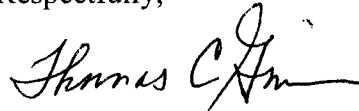
The Honorable Gregory M. Sleet  
Chief Judge  
United States District Court  
for the District of Delaware  
844 King Street  
Wilmington, DE 19801

Re: *Illinois Tool Works Inc. v. Frito-Lay North America, Inc.*,  
C.A. No. 06-054-GMS

Dear Chief Judge Sleet:

On behalf of the parties in the above-captioned action, enclosed please find a proposed Scheduling Order, reflecting the discussion at the scheduling conference held by the Court last week.

Respectfully,



Thomas C. Grimm (#1098)

TCG

Enclosure

cc: Dr. Peter T. Dalleo, Clerk (by hand, w/encl.)  
John W. Shaw, Esquire (by e-filing & e-mail, w/encl.)  
Joseph A. Hynds, Esquire (by e-mail, w/encl.)  
Richard H. Brown, Esquire (by e-mail, w/encl.)